

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Michael Caldwell, #296528,)	C.A. No. 9:05-3386-TLW-GCK
)	
Plaintiff,)	
)	
-versus-)	ORDER
)	
Calvin Wayne Clark, Aiken Dept. Public Safety;)	
Martin Earl Sawyer, Jr., Aiken Dept. Public Safety;)	
Charles H.S. Lyons, III, Attorney at law;)	
P. Andrew Anderson, Attorney at Law,)	
)	
Defendants.)	
)	

The Plaintiff has brought this *pro se* action against the Defendants under Title 42, United States Code, Section 1983. This matter is now before the undersigned for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge George C. Kosko, to whom this case had previously been assigned pursuant to 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2) (D.S.C.). In his Report, Magistrate Judge Kosko recommends that the Plaintiff’s complaint be dismissed without prejudice and without issuance and service of process. The plaintiff has filed objections to the Report.¹

In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections. . . . The Court is not bound by the recommendation of the

¹The document filed by plaintiff is captioned “motion to correct order” (Doc. # 6). Plaintiff has also filed a second document which has been docketed as a supplement to Doc. # 6 (Doc. # 7). The court has reviewed both filings and will construe these documents as being plaintiff’s objections to the Report and Recommendation of the Magistrate Judge.

magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F.Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of this standard, the Court has reviewed, de novo, the Report and the objections thereto. The Court accepts the Report.

THEREFORE, IT IS HEREBY ORDERED that the Magistrate Judge's Report is **ACCEPTED** (Doc. # 5); plaintiff's objections are **OVERRULED** (Docs. # 6 & # 7); and plaintiff's complaint is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

s/ Terry L. Wooten
TERRY L. WOOTEN
UNITED STATES DISTRICT JUDGE

April 27, 2006
Florence, South Carolina